

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ANGELO FERGUSON,

Plaintiff,

v.

MJ34 WRITE-UP, et al.,

Defendants.

Case No.: 2:24-cv-02024-RFB-DJA

ORDER

On November 18, 2024, this Court ordered state prisoner Angelo Ferguson to file a signed complaint on the Court's approved form and either pay the full \$405 filing fee or file a complete application to proceed *in forma pauperis* by January 17, 2025. (ECF No. 4). Before the Court entered that order, Plaintiff dispatched a motion seeking waiver of the fees for filing a petition for writ of mandamus on a state court's form. (ECF No. 5). Considering Plaintiff's motion, the Court clarifies that if Plaintiff seeks to petition for a writ of mandamus or similar proceeding, he cannot do so in this **civil** action. Moreover, if Plaintiff seeks to initiate any type of proceeding with the Nevada Supreme Court—whose fee-waiving form he used—he cannot do so in this **federal** action.

If Plaintiff wishes to bring claims under 42 U.S.C. § 1983 for constitutional violations that allegedly happened while he was incarcerated, then he must submit a signed complaint on this Court's approved form and either pay the required filing fee or apply for *in forma pauperis* status.¹ But if this federal civil action was filed in error and Plaintiff intended to file a petition for a writ of mandamus or initiate any kind of proceeding before the Nevada Supreme Court, then he must file a notice under Federal Rule of Civil

¹ Based on the contents of Plaintiff's initiating document, he might be attempting to bring § 1983 claims under the Fourteenth Amendment about alleged violations of his due-process rights during a disciplinary hearing for an MJ34 charge.

1 Procedure 41(a)(1)(A)(i) voluntarily dismissing this action, file the appropriate petition with
2 the proper court, and either pay the required filing fee or apply for pauper status.

3 It is therefore ordered that Plaintiff's motion to waive fees for petition of writ of
4 mandamus (ECF No. 5) is denied.

5 It is further ordered that Plaintiff has **until January 17, 2025**, to file a signed
6 complaint on this Court's approved form and either pay the full \$405 filing fee for a civil
7 action or file a fully complete application to proceed *in forma pauperis* with all three
8 required documents. Alternatively if Plaintiff did not intend to initiate this federal civil action
9 but meant to file a petition for writ of mandamus or initiate any type of proceeding before
10 the Nevada Supreme Court, then he must file a notice under Federal Rule of Civil
11 Procedure 41(a)(1)(A)(i) voluntarily dismissing this action and file the appropriate petition
12 with the proper court.

13 This action will be subject to dismissal without prejudice if Plaintiff fails to timely
14 comply with this order.

15 The Clerk's Office is directed to resend Plaintiff Angelo Ferguson the approved
16 form for filing a 42 U.S.C. § 1983 complaint, the approved form application to proceed *in*
17 *forma pauperis* by an inmate, and instructions for both documents.

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19 DATED: November 20, 2024



21 DANIEL J. ALBREGTS
22 UNITED STATES MAGISTRATE JUDGE
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